

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 950

Introduced by Assembly Member Hernandez

February 26, 2009

An act to amend Sections 1250, 1250.1, 1746, 128700, and 128755 of, and to add Sections 1520.6, 1568.043, 1569.173, 1749.1, and 1749.3 to, the Health and Safety Code, relating to hospice care.

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as amended, Hernandez. Hospice providers: licensed hospice facilities.

Under existing law, the State Department of Public Health licenses and regulates health care facilities, including adult residential facilities, residential care facilities, and residential care facilities for the elderly. Under existing law, the department also licenses and regulates hospices and the provision of hospice services. Violation of these provisions is a crime.

This bill would create as a new category for, and require the department to license and regulate, hospice facilities, as defined. The bill would allow adult residential facilities, residential care facilities *for the chronically ill*, and residential care facilities for the elderly to lease a contiguous space in that facility for a hospice facility under specified conditions.

Under existing law, any interested person may petition a state agency requesting the adoption of a regulation. Existing law requires the state agency to either deny the petition, as prescribed, or schedule the matter for a public hearing, as prescribed.

This bill would permit the department to avoid drafting regulations required to implement the bill if the California Hospice and Palliative Care Association drafts the regulations, as specified, and submits the draft regulations as a petition for regulation for the department's review and approval.

Because this bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Hospice is a special type of health care service designed to
- 4 provide palliative care and to alleviate the physical, emotional,
- 5 social, and spiritual discomforts of an individual who is
- 6 experiencing the last phases of life due to terminal illness.
- 7 (b) Hospice services provide supportive care to the primary
- 8 caregiver and family of the patient.
- 9 (c) Hospice services are provided primarily in the home, but
- 10 can also be provided in residential care or in health facility inpatient
- 11 settings.
- 12 (d) Persons who do not have family or caregivers who are able
- 13 to provide care in the home should be able to have care provided
- 14 in a home-like environment, rather than in an institutional setting,
- 15 if that is their preference.
- 16 (e) Permitting the establishment of licensed hospice facilities
- 17 provides additional care and treatment options for persons who
- 18 are at the end of life.
- 19 (f) The establishment of licensed hospice facilities is permitted
- 20 under federal law and by many other states.
- 21 (g) Permitting the establishment of licensed hospice facilities
- 22 is consistent with federal legal affirmations of the right of an

1 individual to refuse life-sustaining treatment and that each person's
2 preferences about his or her end-of-life care should be considered.

3 (h) Permitting the establishment of licensed hospice facilities
4 is also consistent with the decision of the United States Supreme
5 Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581, which
6 held that persons with disabilities have the right to live in the most
7 integrated setting possible with appropriate access to care and
8 choice of community-based services and placement options.

9 (i) It is the intent of the Legislature to permit the licensure of
10 hospice inpatient facilities in order to improve access to care, to
11 provide additional care options, and to provide for a home-like
12 environment within which to provide care and treatment for persons
13 who are experiencing the last phases of life.

14 SEC. 2. Section 1250 of the Health and Safety Code is amended
15 to read:

16 1250. As used in this chapter, "health facility" means any
17 facility, place, or building that is organized, maintained, and
18 operated for the diagnosis, care, prevention, and treatment of
19 human illness, physical or mental, including convalescence and
20 rehabilitation and including care during and after pregnancy, or
21 for any one or more of these purposes, for one or more persons,
22 to which the persons are admitted for a 24-hour stay or longer, and
23 includes the following types:

24 (a) "General acute care hospital" means a health facility having
25 a duly constituted governing body with overall administrative and
26 professional responsibility and an organized medical staff that
27 provides 24-hour inpatient care, including the following basic
28 services: medical, nursing, surgical, anesthesia, laboratory,
29 radiology, pharmacy, and dietary services. A general acute care
30 hospital may include more than one physical plant maintained and
31 operated on separate premises as provided in Section 1250.8. A
32 general acute care hospital that exclusively provides acute medical
33 rehabilitation center services, including at least physical therapy,
34 occupational therapy, and speech therapy, may provide for the
35 required surgical and anesthesia services through a contract with
36 another acute care hospital. In addition, a general acute care
37 hospital that, on July 1, 1983, provided required surgical and
38 anesthesia services through a contract or agreement with another
39 acute care hospital may continue to provide these surgical and
40 anesthesia services through a contract or agreement with an acute

1 care hospital. The general acute care hospital operated by the State
2 Department of Developmental Services at Agnews Developmental
3 Center may, until June 30, 2007, provide surgery and anesthesia
4 services through a contract or agreement with another acute care
5 hospital. Notwithstanding the requirements of this subdivision, a
6 general acute care hospital operated by the Department of
7 Corrections and Rehabilitation or the Department of Veterans
8 Affairs may provide surgery and anesthesia services during normal
9 weekday working hours, and not provide these services during
10 other hours of the weekday or on weekends or holidays, if the
11 general acute care hospital otherwise meets the requirements of
12 this section.

13 A "general acute care hospital" includes a "rural general acute
14 care hospital." However, a "rural general acute care hospital" shall
15 not be required by the department to provide surgery and anesthesia
16 services. A "rural general acute care hospital" shall meet either of
17 the following conditions:

18 (1) The hospital meets criteria for designation within peer group
19 six or eight, as defined in the report entitled Hospital Peer Grouping
20 for Efficiency Comparison, dated December 20, 1982.

21 (2) The hospital meets the criteria for designation within peer
22 group five or seven, as defined in the report entitled Hospital Peer
23 Grouping for Efficiency Comparison, dated December 20, 1982,
24 and has no more than 76 acute care beds and is located in a census
25 dwelling place of 15,000 or less population according to the 1980
26 federal census.

27 (b) "Acute psychiatric hospital" means a health facility having
28 a duly constituted governing body with overall administrative and
29 professional responsibility and an organized medical staff who
30 provides 24-hour inpatient care for mentally disordered,
31 incompetent, or other patients referred to in Division 5
32 (commencing with Section 5000) or Division 6 (commencing with
33 Section 6000) of the Welfare and Institutions Code, including the
34 following basic services: medical, nursing, rehabilitative,
35 pharmacy, and dietary services.

36 (c) "Skilled nursing facility" means a health facility that provides
37 skilled nursing care and supportive care to patients whose primary
38 need is for availability of skilled nursing care on an extended basis.

39 (d) "Intermediate care facility" means a health facility that
40 provides inpatient care to ambulatory or nonambulatory patients

1 who have recurring need for skilled nursing supervision and need
2 supportive care, but who do not require availability of continuous
3 skilled nursing care.

4 (e) “Intermediate care facility/developmentally disabled
5 habilitative” means a facility with a capacity of 4 to 15 beds that
6 provides 24-hour personal care, habilitation, developmental, and
7 supportive health services to 15 or fewer developmentally disabled
8 persons who have intermittent recurring needs for nursing services,
9 but have been certified by a physician and surgeon as not requiring
10 availability of continuous skilled nursing care.

11 (f) “Special hospital” means a health facility having a duly
12 constituted governing body with overall administrative and
13 professional responsibility and an organized medical or dental staff
14 who provides inpatient or outpatient care in dentistry or maternity.

15 (g) “Intermediate care facility/developmentally disabled” means
16 a facility that provides 24-hour personal care, habilitation,
17 developmental, and supportive health services to developmentally
18 disabled clients whose primary need is for developmental services
19 and who have a recurring but intermittent need for skilled nursing
20 services.

21 (h) “Intermediate care facility/developmentally
22 disabled—nursing” means a facility with a capacity of 4 to 15 beds
23 that provides 24-hour personal care, developmental services, and
24 nursing supervision for developmentally disabled persons who
25 have intermittent recurring needs for skilled nursing care but have
26 been certified by a physician and surgeon as not requiring
27 continuous skilled nursing care. The facility shall serve medically
28 fragile persons who have developmental disabilities or demonstrate
29 significant developmental delay that may lead to a developmental
30 disability if not treated.

31 (i) (1) “Congregate living health facility” means a residential
32 home with a capacity, except as provided in paragraph (4), of no
33 more than 12 beds, that provides inpatient care, including the
34 following basic services: medical supervision, 24-hour skilled
35 nursing and supportive care, pharmacy, dietary, social, recreational,
36 and at least one type of service specified in paragraph (2). The
37 primary need of congregate living health facility residents shall
38 be for availability of skilled nursing care on a recurring,
39 intermittent, extended, or continuous basis. This care is generally

1 less intense than that provided in general acute care hospitals but
2 more intense than that provided in skilled nursing facilities.

3 (2) Congregate living health facilities shall provide one of the
4 following services:

5 (A) Services for persons who are mentally alert, physically
6 disabled persons, who may be ventilator dependent.

7 (B) Services for persons who have a diagnosis of terminal
8 illness, a diagnosis of a life-threatening illness, or both. Terminal
9 illness means the individual has a life expectancy of six months
10 or less as stated in writing by his or her attending physician and
11 surgeon. A “life-threatening illness” means the individual has an
12 illness that can lead to a possibility of a termination of life within
13 five years or less as stated in writing by his or her attending
14 physician and surgeon.

15 (C) Services for persons who are catastrophically and severely
16 disabled. A catastrophically and severely disabled person means
17 a person whose origin of disability was acquired through trauma
18 or nondegenerative neurologic illness, for whom it has been
19 determined that active rehabilitation would be beneficial and to
20 whom these services are being provided. Services offered by a
21 congregate living health facility to a catastrophically disabled
22 person shall include, but not be limited to, speech, physical, and
23 occupational therapy.

24 (3) A congregate living health facility license shall specify which
25 of the types of persons described in paragraph (2) to whom a
26 facility is licensed to provide services.

27 (4) (A) A facility operated by a city and county for the purposes
28 of delivering services under this section may have a capacity of
29 59 beds.

30 (B) A congregate living health facility not operated by a city
31 and county servicing persons who are terminally ill, persons who
32 have been diagnosed with a life-threatening illness, or both, that
33 is located in a county with a population of 500,000 or more persons
34 may have not more than 25 beds for the purpose of serving
35 terminally ill persons.

36 (C) A congregate living health facility not operated by a city
37 and county serving persons who are catastrophically and severely
38 disabled, as defined in subparagraph (C) of paragraph (2) that is
39 located in a county of 500,000 or more persons may have not more

1 than 12 beds for the purpose of serving catastrophically and
2 severely disabled persons.

3 (5) A congregate living health facility shall have a
4 noninstitutional, homelike environment.

5 (j) (1) "Correctional treatment center" means a health facility
6 operated by the Department of Corrections and Rehabilitation, or
7 a county, city, or city and county law enforcement agency that, as
8 determined by the state department, provides inpatient health
9 services to that portion of the inmate population who do not require
10 a general acute care level of basic services. This definition shall
11 not apply to those areas of a law enforcement facility that houses
12 inmates or wards who may be receiving outpatient services and
13 are housed separately for reasons of improved access to health
14 care, security, and protection. The health services provided by a
15 correctional treatment center shall include, but are not limited to,
16 all of the following basic services: physician and surgeon,
17 psychiatrist, psychologist, nursing, pharmacy, and dietary. A
18 correctional treatment center may provide the following services:
19 laboratory, radiology, perinatal, and any other services approved
20 by the state department.

21 (2) Outpatient surgical care with anesthesia may be provided,
22 if the correctional treatment center meets the same requirements
23 as a surgical clinic licensed pursuant to Section 1204, with the
24 exception of the requirement that patients remain less than 24
25 hours.

26 (3) Correctional treatment centers shall maintain written service
27 agreements with general acute care hospitals to provide for those
28 inmate physical health needs that cannot be met by the correctional
29 treatment center.

30 (4) Physician and surgeon services shall be readily available in
31 a correctional treatment center on a 24-hour basis.

32 (5) It is not the intent of the Legislature to have a correctional
33 treatment center supplant the general acute care hospitals at the
34 California Medical Facility, the California Men's Colony, and the
35 California Institution for Men. This subdivision shall not be
36 construed to prohibit the Department of Corrections and
37 Rehabilitation from obtaining a correctional treatment center
38 license at these sites.

39 (k) "Nursing facility" means a health facility licensed pursuant
40 to this chapter that is certified to participate as a provider of care

1 either as a skilled nursing facility in the federal Medicare Program
2 under Title XVIII of the federal Social Security Act or as a nursing
3 facility in the federal Medicaid Program under Title XIX of the
4 federal Social Security Act, or as both.

5 (l) Regulations defining a correctional treatment center described
6 in subdivision (j) that is operated by a county, city, or city and
7 county, the Department of Corrections and Rehabilitation, shall
8 not become effective prior to, or if effective, shall be inoperative
9 until January 1, 1996, and until that time these correctional facilities
10 are exempt from any licensing requirements.

11 (m) "Hospice facility" means a facility licensed pursuant to
12 Sections 1749.1 and 1749.3.

13 SEC. 3. Section 1250.1 of the Health and Safety Code is
14 amended to read:

15 1250.1. (a) The state department shall adopt regulations that
16 define all of the following bed classifications for health facilities:

- 17 (1) General acute care.
- 18 (2) Skilled nursing.
- 19 (3) Intermediate care-developmental disabilities.
- 20 (4) Intermediate care—other.
- 21 (5) Acute psychiatric.
- 22 (6) Specialized care, with respect to special hospitals only.
- 23 (7) Chemical dependency recovery.
- 24 (8) Intermediate care facility/developmentally disabled
25 habilitative.
- 26 (9) Intermediate care facility/developmentally disabled nursing.
- 27 (10) Congregate living health facility.
- 28 (11) Pediatric day health and respite care facility, as defined
29 in Section 1760.2.
- 30 (12) Correctional treatment center. For correctional treatment
31 centers that provide psychiatric and psychological services
32 provided by county mental health agencies in local detention
33 facilities, the State Department of Mental Health shall adopt
34 regulations specifying acute and nonacute levels of 24-hour care.
35 Licensed inpatient beds in a correctional treatment center shall be
36 used only for the purpose of providing health services.
- 37 (13) Hospice facility. The department shall consult with the
38 State Department of Social Services, the Office of Statewide Health
39 Planning and Development, and the Office of the State Fire
40 Marshal when drafting regulations pursuant to this section.

(b) Except as provided in Section 1253.1, beds classified as intermediate care beds, on September 27, 1978, shall be reclassified by the state department as intermediate care—other. This reclassification shall not constitute a “project” within the meaning of Section 127170 and shall not be subject to any requirement for a certificate of need under Chapter 1 (commencing with Section 127125) of Part 2 of Division 107, and regulations of the state department governing intermediate care prior to the effective date shall continue to be applicable to the intermediate care—other classification unless and until amended or repealed by the state department.

SEC. 4. Section 1520.6 is added to the Health and Safety Code, to read:

1520.6. (a) (1) An adult residential facility, as defined in paragraph (5) of subdivision (a) of Section 80001 of Title 22 of the California Code of Regulations, licensed pursuant to this chapter, may lease contiguous beds or space to a licensed hospice facility, as defined in subdivision (m) of Section 1250, in accordance with this section. The adult residential facility shall obtain written approval from the department at least 30 days before the effective date of the lease. For purposes of this section, “contiguous beds or space” means a separate unit, wing, floor, building, or grouping of beds, offices, or rooms that are used exclusively for the purposes of operating a licensed hospice facility and does not contain any space used by the adult residential facility.

(2) Not more than 25 percent of the adult residential facility’s total bed capacity shall be used for purposes of a hospice facility, unless the department issues an exemption.

(3) Notwithstanding paragraph (2), the department may issue regulations that increase the maximum percentage of total bed capacity used for a hospice facility.

(b) When a portion of an adult residential facility is leased for the purpose described in subdivision (a), the department shall issue a new license to the licensee of ~~an~~ *the* adult residential facility that does not include the number of beds leased to ~~a~~ *the* hospice facility. The department may request a new plan of operation from the licensee that demonstrates the licensee’s ability to meet all licensing requirements within the proximity of the hospice facility.

~~(c) Notwithstanding any other law, an adult residential facility may place all or a portion of its licensed bed capacity in voluntary~~

1 suspension in order to lease that space to a licensed hospice facility.
2 The health facility shall obtain written approval from the
3 department and provide written notification to the Office of
4 Statewide Health Planning and Development at least 30 days prior
5 to the effective date of the lease. The period of voluntary
6 suspension shall coincide with the duration of the hospice facility
7 license. Upon termination of the lease agreements, termination,
8 temporary suspension, revocation, or cancellation of the license,
9 termination of Medicare or Medicaid certification, or voluntary
10 surrender of the hospice facility or hospice program license, the
11 bed capacity shall be removed from voluntary suspension and
12 reinstated to the health facility within which the hospice facility
13 was located.

14 ~~(d)~~

15 (c) Nothing in this subdivision shall prohibit staff from being
16 employees of both the adult residential facility and the hospice
17 facility. The staff of the adult residential facility shall not
18 simultaneously provide care or services to residents of both
19 facilities.

20 ~~(e)~~

21 (d) Hospice facility patients shall not be subject to the
22 requirements of paragraph (1) of subdivision (b) of Section 1522.

23 ~~(f)~~

24 (e) Common areas used by residents of the adult residential
25 facility shall not be routinely used as common areas for hospice
26 patients, except as provided by mutual agreement between the
27 facilities.

28 ~~(g)~~

29 (f) Nothing in this section shall prohibit residents of the adult
30 residential facility or patients of the hospice facility from visiting
31 each other, provided all licensing requirements for visitors are met.

32 ~~(h)~~

33 (g) A licensed hospice facility that is located within an existing
34 licensed adult residential facility shall assume full and complete
35 responsibility for complying with all applicable licensing and
36 certification requirements when providing hospice care to patients
37 within the hospice facility, whether hospice services are provided
38 directly by, or under contract with, the licensee. Unless specified
39 by contract, in no event shall a licensed adult residential facility

1 be responsible for the operations of, or assume any liability in
2 connection with, the hospice facility.

3 SEC. 5. Section 1568.043 is added to the Health and Safety
4 Code, to read:

5 1568.043. (a) (1) A residential care facility that is licensed
6 pursuant to this chapter may lease contiguous beds or space to a
7 licensed hospice facility, as defined in subdivision (m) of Section
8 1250, in accordance with this section. The residential care facility
9 shall obtain written approval from the department at least 30 days
10 before the effective date of the lease. For purposes of this section,
11 “contiguous beds or space” means a separate unit, wing, floor,
12 building, or grouping of beds, offices, or rooms that are used
13 exclusively for the purposes of operating a licensed hospice facility
14 and does not contain any space used by the residential care facility.

15 (2) Not more than 25 percent of the ~~adult residential~~ *residential*
16 *care* facility’s total bed capacity shall be used for purposes of a
17 hospice facility, unless the department issues an exemption.

18 (3) Notwithstanding paragraph (2), the department may issue
19 regulations that increase the maximum percentage of total bed
20 capacity used for a hospice facility.

21 (b) When a portion of a residential care facility is leased for the
22 purpose described in subdivision (a), the department shall issue a
23 new license to the licensee of ~~a~~ *the* residential care facility that
24 does not include the number of beds leased to ~~a~~ *the* hospice facility.
25 The department may request a new plan of operation from the
26 licensee that demonstrates the licensee’s ability to meet all
27 licensing requirements within the proximity of the hospice facility.

28 ~~(c) Notwithstanding any other law, a residential care facility~~
29 ~~may place all or a portion of its licensed bed capacity in voluntary~~
30 ~~suspension in order to lease that space to a licensed hospice facility.~~
31 ~~The health facility shall obtain written approval from the~~
32 ~~department and provide written notification to the Office of~~
33 ~~Statewide Health Planning and Development at least 30 days prior~~
34 ~~to the effective date of the lease. The period of voluntary~~
35 ~~suspension shall coincide with the duration of the hospice facility~~
36 ~~license. Upon termination of the lease agreements, termination,~~
37 ~~temporary suspension, revocation, or cancellation of the license,~~
38 ~~termination of Medicare or Medicaid certification, or voluntary~~
39 ~~surrender of the hospice facility or hospice program license, the~~
40 ~~bed capacity shall be removed from voluntary suspension and~~

1 ~~reinstated to the health facility within which the hospice facility~~
2 ~~was located.~~

3 ~~(d)~~

4 (c) Nothing in this subdivision shall prohibit staff from being
5 employees of both the residential care facility and the hospice
6 facility. The staff of the residential care facility shall not
7 simultaneously provide care or services to residents of both
8 facilities.

9 ~~(e)~~

10 (d) Hospice facility patients shall not be subject to the
11 requirements of paragraph (2) of subdivision (b) of Section
12 1568.09.

13 ~~(f)~~

14 (e) Common areas used by residents of the residential care
15 facility shall not be routinely used as common areas for hospice
16 patients, except as provided by mutual agreement between the
17 facilities.

18 ~~(g)~~

19 (f) Nothing in this section shall prohibit residents of the
20 residential care facility or patients of the hospice facility from
21 visiting each other, provided that all licensing requirements for
22 visitors are met.

23 ~~(h)~~

24 (g) A licensed hospice facility that is located within an existing
25 licensed residential care facility shall assume full and complete
26 responsibility for complying with all applicable licensing and
27 certification requirements when providing hospice care to patients
28 within the hospice facility, whether hospice services are provided
29 directly by, or under contract with, the licensee. Unless specified
30 by contract, in no event shall a licensed residential care facility be
31 responsible for the operations of, or assume any liability in
32 connection with, the hospice facility.

33 SEC. 6. Section 1569.173 is added to the Health and Safety
34 Code, to read:

35 1569.173. (a) (1) A residential care facility for the elderly
36 licensed pursuant to this chapter may lease contiguous beds or
37 space to a licensed hospice facility, as defined in subdivision (m)
38 of Section 1250, in accordance with this section. The residential
39 care facility for the elderly shall obtain prior written approval from
40 the department at least 30 days before the effective date of the

1 lease. For purposes of this section, “contiguous beds or space”
2 means a separate unit, wing, floor, building, or grouping of beds,
3 offices, or rooms that are used exclusively for the purposes of
4 operating a licensed hospice facility.

5 (2) Not more than 25 percent of the residential care facility for
6 the elderly’s total bed capacity shall be used for purposes of a
7 licensed hospice facility, unless the department issues an
8 exemption.

9 (3) Notwithstanding paragraph (2), the department may issue
10 regulations that increase the maximum percentage of total bed
11 capacity used for a hospice facility.

12 (b) When a portion of a residential care facility for the elderly
13 is leased for the purpose described in subdivision (a), the
14 department shall issue a new license to the licensee of ~~a~~ *the*
15 residential facility for the elderly that does not include the number
16 of beds leased to ~~a~~ *the* hospice facility. The department may request
17 a new plan of operation from the licensee that demonstrates the
18 licensee’s ability to meet all licensing requirements within the
19 proximity of the hospice facility.

20 ~~(c) Notwithstanding any other law, a residential care facility for~~
21 ~~the elderly may place all or a portion of its licensed bed capacity~~
22 ~~in voluntary suspension in order to lease that space to a licensed~~
23 ~~hospice facility. The health facility shall obtain written approval~~
24 ~~from the department and provide written notification to the Office~~
25 ~~of Statewide Health Planning and Development at least 30 days~~
26 ~~prior to the effective date of the lease. The period of voluntary~~
27 ~~suspension shall coincide with the duration of the hospice facility~~
28 ~~license. Upon termination of the lease agreements, termination,~~
29 ~~temporary suspension, revocation, or cancellation of the license,~~
30 ~~termination of Medicare or Medicaid certification, or voluntary~~
31 ~~surrender of the hospice facility or hospice program license, the~~
32 ~~bed capacity shall be removed from voluntary suspension and~~
33 ~~reinstated to the health facility within which the hospice facility~~
34 ~~was located.~~

35 ~~(d)~~

36 (c) Nothing in this subdivision shall prohibit staff from being
37 employees of both the residential care facility for the elderly and
38 the hospice facility. The staff of the residential care facility shall
39 not simultaneously provide care or services to residents of both
40 facilities.

1 ~~(e)~~

2 (d) Hospice facility patients shall not be subject to the
3 requirements of subparagraph (B) of paragraph (1) of subdivision
4 (b) of Section 1569.17.

5 ~~(f)~~

6 (e) Common areas used by residents of the residential care
7 facility for the elderly shall not be routinely used as common areas
8 for hospice patients, except as provided by mutual agreement
9 between the facilities.

10 ~~(g)~~

11 (f) Nothing in this section shall prohibit residents of the
12 residential care facility for the elderly or patients of the hospice
13 facility from visiting each other, provided that all licensing
14 requirements for visitors are met.

15 ~~(h)~~

16 (g) A licensed hospice facility that is located within an existing
17 licensed residential care facility for the elderly shall assume full
18 and complete responsibility for complying with all applicable
19 licensing and certification requirements when providing hospice
20 care to patients within the hospice facility, whether hospice services
21 are provided directly by, or under contract with, the licensee.
22 Unless specified by contract, in no event shall a licensed residential
23 care facility for the elderly be responsible for the operations of, or
24 assume any liability in connection with, the hospice facility.

25 SEC. 7. Section 1746 of the Health and Safety Code is amended
26 to read:

27 1746. For purposes of this chapter, the following definitions
28 apply:

29 (a) “Bereavement services” means those services available to
30 the surviving family members for a period of at least one year after
31 the death of the patient, including an assessment of the needs of
32 the bereaved family and the development of a care plan that meets
33 these needs, both prior to and following the death of the patient.

34 (b) “Home health aide” has the same meaning as set forth in
35 subdivision (c) of Section 1727.

36 (c) “Home health aide services” means those services described
37 in subdivision (d) of Section 1727 that provide for the personal
38 care of the terminally ill patient and the performance of related
39 tasks in the patient’s home in accordance with the plan of care in

1 order to increase the level of comfort and to maintain personal
2 hygiene and a safe, healthy environment for the patient.

3 (d) "Hospice" means a specialized form of interdisciplinary
4 health care that is designed to provide palliative care, alleviate the
5 physical, emotional, social, and spiritual discomforts of an
6 individual who is experiencing the last phases of life due to the
7 existence of a terminal disease, and provide supportive care to the
8 primary caregiver and the family of the hospice patient, and that
9 meets all of the following criteria:

10 (1) Considers the patient and the patient's family, in addition
11 to the patient, as the unit of care.

12 (2) Utilizes an interdisciplinary team to assess the physical,
13 medical, psychological, social, and spiritual needs of the patient
14 and the patient's family.

15 (3) Requires the interdisciplinary team to develop an overall
16 plan of care and to provide coordinated care that emphasizes
17 supportive services, including, but not limited to, home care, pain
18 control, and limited inpatient services. Limited inpatient services
19 are intended to ensure both continuity of care and appropriateness
20 of services for those patients who cannot be managed at home
21 because of acute complications or the temporary absence of a
22 capable primary caregiver.

23 (4) Provides for the palliative medical treatment of pain and
24 other symptoms associated with a terminal disease, but does not
25 provide for efforts to cure the disease.

26 (5) Provides for bereavement services following death to assist
27 the family in coping with social and emotional needs associated
28 with the death of the patient.

29 (6) Actively utilizes volunteers in the delivery of hospice
30 services.

31 (7) To the extent appropriate, based on the medical needs of the
32 patient, provides services in the patient's home or primary place
33 of residence.

34 (e) "Hospice facility" means a health facility that has been
35 licensed pursuant to Sections 1749.1 and 1749.3 by the department
36 for the provision of hospice care, including routine care, continuous
37 care, inpatient respite care, and general inpatient care. Hospice
38 facility licensure shall be granted only to licensed and certified
39 hospices licensed in California.

1 (f) “Inpatient care arrangements” means arranging for those
2 short inpatient stays that may become necessary to manage acute
3 symptoms or because of the temporary absence, or need for respite,
4 of a capable primary caregiver. The hospice shall arrange for these
5 stays, ensuring both continuity of care and the appropriateness of
6 services.

7 (g) “Interdisciplinary team” means the hospice care team that
8 includes, but is not limited to, the patient and patient’s family, a
9 physician and surgeon, a registered nurse, a social worker, a
10 volunteer, and a spiritual caregiver. The team shall be coordinated
11 by a registered nurse and shall be under medical direction. The
12 team shall meet regularly to develop and maintain an appropriate
13 plan of care.

14 (h) “Medical direction” means those services provided by a
15 licensed physician and surgeon who is charged with the
16 responsibility of acting as a consultant to the interdisciplinary
17 team, a consultant to the patient’s attending physician and surgeon,
18 as requested, with regard to pain and symptom management, and
19 a liaison with physicians and surgeons in the community.

20 (i) “Multiple location” means a location or site from which a
21 hospice makes available basic hospice services within the service
22 area of the parent agency. A multiple location shares
23 administration, supervision, policies and procedures, and services
24 with the parent agency in a manner that renders it unnecessary for
25 the site to independently meet the licensing requirements.

26 (j) “Palliative” refers to medical treatment, interdisciplinary
27 care, or consultation provided to the patient or family members,
28 or both, that ~~have~~ *has* as its primary ~~purposes~~ *purpose* preventing
29 or relieving suffering and enhancing the quality of life, rather than
30 curing the disease, as described in subdivision (b) of Section
31 1339.31, of a patient who has an end-stage medical condition.

32 (k) “Parent agency” means the part of the hospice that is licensed
33 pursuant to this chapter and that develops and maintains
34 administrative controls of multiple locations. All services provided
35 by the multiple locations and parent agency are the responsibility
36 of the parent agency.

37 (l) “Plan of care” means a written plan developed by the
38 attending physician and surgeon, the medical director or physician
39 and surgeon designee, and the interdisciplinary team that addresses
40 the needs of a patient and family admitted to the hospice program.

1 The hospice shall retain overall responsibility for the development
2 and maintenance of the plan of care and quality of services
3 delivered.

4 (m) "Preliminary services" means those services authorized
5 pursuant to subdivision (d) of Section 1749.

6 (n) "Skilled nursing services" means nursing services provided
7 by or under the supervision of a registered nurse under a plan of
8 care developed by the interdisciplinary team and the patient's
9 physician and surgeon to a patient and his or her family that pertain
10 to the palliative, supportive services required by patients with a
11 terminal illness. Skilled nursing services include, but are not limited
12 to, patient assessment, evaluation and case management of the
13 medical nursing needs of the patient, the performance of prescribed
14 medical treatment for pain and symptom control, the provision of
15 emotional support to both the patient and his or her family, and
16 the instruction of caregivers in providing personal care to the
17 patient. Skilled nursing services shall provide for the continuity
18 of services for the patient and his or her family. Skilled nursing
19 services shall be available on a 24-hour on-call basis.

20 (o) "Social services/counseling services" means those counseling
21 and spiritual care services that assist the patient and his or her
22 family to minimize stresses and problems that arise from social,
23 economic, psychological, or spiritual needs by utilizing appropriate
24 community resources, and maximize positive aspects and
25 opportunities for growth.

26 (p) "Terminal disease" or "terminal illness" means a medical
27 condition resulting in a prognosis of life of one year or less, if the
28 disease follows its natural course.

29 (q) "Volunteer services" means those services provided by
30 trained hospice volunteers who have agreed to provide service
31 under the direction of a hospice staff member who has been
32 designated by the hospice to provide direction to hospice
33 volunteers. Hospice volunteers may be used to provide support
34 and companionship to the patient and his or her family during the
35 remaining days of the patient's life and to the surviving family
36 following the patient's death.

37 SEC. 8. Section 1749.1 is added to the Health and Safety Code,
38 to read:

39 1749.1. (a) Hospices licensed and certified in California may
40 apply for a hospice facility license. A hospice facility shall be both

1 licensed, and certified to participate as a provider of hospice care
2 in the federal Medicare program under Title XVIII of the federal
3 Social Security Act (42 U.S.C. Sec. 1395 et seq.). *A hospice facility*
4 *shall be separately licensed, irrespective of the location of the*
5 *facility.*

6 (b) Hospice facility licensees shall be responsible for obtaining
7 criminal background checks for employees, volunteers, and
8 contractors in accordance with federal Medicare conditions of
9 participation (42-CFR C.F.R. 418 et seq.) and as may be required
10 in accordance with state law. The hospice facility licensee shall
11 pay the costs of obtaining a criminal background check.

12 (c) Building standards adopted pursuant to this section relating
13 to fire and panic safety, and other regulations adopted pursuant to
14 this section, shall apply uniformly throughout the state. No city,
15 county, city and county, including a charter city or charter county,
16 or fire protection district shall adopt or enforce any ordinance or
17 local rule or regulation relating to fire and panic safety in buildings
18 or structures subject to this section that is inconsistent with the
19 rules and regulations adopted pursuant to this section.

20 (d) *The hospice facility shall meet the fire protection standards*
21 *set forth in federal Medicare conditions of participation (42 C.F.R.*
22 *418 et seq.).*

23 ~~(d)~~

24 (e) A hospice facility may operate as a freestanding facility, but
25 may also be located adjacent to, physically connected to, or on the
26 building grounds of another health facility or residential care
27 facility. Freestanding hospice facilities shall not be required to
28 submit construction plans to the Office of Statewide Health
29 Planning and Development for new construction or renovation.
30 As part of the application for licensure, the prospective licensee
31 shall submit evidence of compliance with local building codes. In
32 addition, the physical environment of the facility shall be adequate
33 to provide the level of care and service required by the residents
34 of the facility as determined by the department.

35 ~~(e) Irrespective of location, hospice facilities shall be separately~~
36 ~~licensed.~~

37 ~~(f) The hospice facility shall meet the fire protection standards~~
38 ~~set forth in federal Medicare conditions of participation (42 CFR~~
39 ~~418 et seq.).~~

40 ~~(g) A separately-licensed~~

(f) A hospice facility may be located in all or a portion of an existing health facility, adult residential facility, residential care facility *for the chronically ill*, or residential care facility for the elderly and may lease space from that facility. The area leased by the hospice facility shall be made up of contiguous beds in a separate unit or floor within the leasing facility. The hospice facility shall be identifiable as a separately-operating health facility and shall have separate signage.

~~(h)~~

(g) A hospice facility that is located in all or a portion of another health facility shall be subject to all of the following:

(1) The hospice facility shall not be required to submit construction plans to the Office of Statewide Health Planning and Development for new construction or renovation, unless the hospice facility is located within *the physical plant of* a health facility that is otherwise required to submit plans to the Office of Statewide Health Planning and Development.

(2) As part of the application for licensure, the prospective licensee shall submit evidence of compliance with local building codes. In addition, the physical environment of the facility shall be adequate to provide the level of care and service required by the residents of the facility as determined by the department.

(3) The hospice facility shall assume full and complete responsibility for complying with all applicable licensing and certification requirements when providing hospice care to patients within the hospice facility, whether hospice services are provided directly by, or under contract with, the licensee. Unless specified by contract, in no event shall the licensed health facility in which a hospice facility is located be responsible for the operations of, or assume any liability in connection with, the hospice facility.

(4) *Notwithstanding any other law, a health facility may place all or a portion of its licensed bed capacity in voluntary suspension in order to lease that space to a licensed hospice facility. The health facility shall obtain written approval from the department and provide written notification to the Office of Statewide Health Planning and Development at least 30 days prior to the effective date of the lease. The period of voluntary suspension shall coincide with the duration of the hospice facility license. Upon termination of the lease agreements, termination, temporary suspension, revocation, or cancellation of the license, termination of Medicare*

1 *or Medicaid certification, or voluntary surrender of the hospice*
2 *facility or hospice program license, the bed capacity shall be*
3 *removed from voluntary suspension and reinstated to the health*
4 *facility within which the hospice facility was located.*

5 *(h) A hospice facility that is located in all or a portion of an*
6 *adult residential facility, residential care facility for the chronically*
7 *ill, or residential care facility for the elderly shall be subject to*
8 *all of the following:*

9 *(1) The hospice facility shall not be required to submit*
10 *construction plans to the Office of Statewide Health Planning and*
11 *Development for new construction or renovation.*

12 *(2) The hospice facility shall assume full and complete*
13 *responsibility for complying with all applicable licensing and*
14 *certification requirements when providing hospice care to patients*
15 *within the hospice facility, whether hospice services are provided*
16 *directly by, or under contract with, the licensee. Unless specified*
17 *by contract, in no event shall the licensed adult residential facility,*
18 *residential care facility for the chronically ill, or residential care*
19 *facility for the elderly, in which a hospice facility is located, be*
20 *responsible for the operations of, or assume any liability in*
21 *connection with, the hospice facility.*

22 *(i) ~~In addition to the other provisions of this section, persons A~~*
23 *person who is excluded under Section 1558, 1568.092, or 1569.58*
24 *shall not be a member of a hospice facility board of directors, or*
25 *a licensee, contractor, volunteer, or employee of a hospice facility*
26 *located in a portion of a residential care facility.*

27 SEC. 9. Section 1749.3 is added to the Health and Safety Code,
28 to read:

29 1749.3. (a) In order for a hospice program to be licensed as a
30 hospice facility, it shall provide, or make provision for, all of the
31 following services and requirements:

- 32 (1) Medical direction and adequate staff.
- 33 (2) Skilled nursing services.
- 34 (3) Palliative care.
- 35 (4) Social services and counseling services.
- 36 (5) Bereavement services.
- 37 (6) Volunteer services.
- 38 (7) Dietary services.
- 39 (8) Pharmaceutical services.

1 (9) Physical therapy, occupational therapy, and speech-language
2 therapy.

3 (10) Patient rights.

4 (11) Disaster preparedness.

5 (12) An adequate, safe, and sanitary physical environment.

6 (13) Housekeeping services.

7 ~~(14) Adequate and secure administrative and patient~~ *Patient*
8 medical records.

9 *(15) Other administrative requirements.*

10 (b) The department shall adopt regulations that establish
11 standards for the provision of the services in subdivision (a). These
12 regulations shall include, but are not limited to, all of the following:

13 (1) Minimum staffing standards that require at least one licensed
14 nurse to be on duty 24 hours per day and a maximum of six patients
15 at any given time per direct care staffperson.

16 (2) Patients rights provisions ~~that require~~ that provide each
17 patient with all of the following:

18 (A) Full information regarding his or her health status and
19 options for end-of-life care.

20 (B) Care that reflects individual preferences regarding
21 end-of-life care, including the right to refuse any treatment or
22 procedure.

23 (C) Treatment with consideration, respect, and full recognition
24 of dignity and individuality, including privacy in treatment and
25 care of personal needs.

26 (D) Entitlement to visitors of his or her choosing, at any time
27 the patient chooses, and ensured privacy for those visits.

28 (3) Disaster preparedness plans for both internal and external
29 disasters that ~~protects~~ *protect* hospice patients, employees, and
30 visitors, and reflect coordination with local agencies that are
31 responsible for disaster preparedness and emergency response.

32 (4) ~~Any additional~~ *Additional* qualifications and requirements
33 for licensure above the requirements of this section and Section
34 1749.1.

35 (c) The hospice facility shall provide a home-like environment
36 that is comfortable and accommodating to both the patient and the
37 patient's visitors.

38 (d) The hospice facility shall continue to provide services to
39 family and friends after the patient's stay in the hospice facility in

1 accordance with the patient's plan of care. These services may be
2 provided by the hospice program that operates the hospice facility.

3 SEC. 10. Section 128700 of the Health and Safety Code is
4 amended to read:

5 128700. As used in this chapter, the following ~~terms mean~~
6 *definitions apply*:

7 (a) "Ambulatory surgery procedures" ~~mean means~~ those
8 procedures performed on an outpatient basis in the general
9 operating rooms, ambulatory surgery rooms, endoscopy units, or
10 cardiac catheterization laboratories of a hospital or a freestanding
11 ambulatory surgery clinic.

12 (b) "Commission" means the California Health Policy and Data
13 Advisory Commission.

14 (c) "Emergency department" means, in a hospital licensed to
15 provide emergency medical services, the location in which those
16 services are provided.

17 (d) "Encounter" means a face-to-face contact between a patient
18 and the provider who has primary responsibility for assessing and
19 treating the condition of the patient at a given contact and exercises
20 independent judgment in the care of the patient.

21 (e) "Freestanding ambulatory surgery clinic" means a surgical
22 clinic that is licensed by the state under paragraph (1) of
23 subdivision (b) of Section 1204.

24 (f) "Health facility" or "health facilities" means all health
25 facilities required to be licensed pursuant to Chapter 2
26 (commencing with Section 1250) of Division 2.

27 (g) "Hospital" means all health facilities except skilled nursing,
28 intermediate care, hospice facilities, and congregate living health
29 facilities.

30 (h) "Office" means the Office of Statewide Health Planning and
31 Development.

32 (i) "Risk-adjusted outcomes" means the clinical outcomes of
33 patients grouped by diagnoses or procedures that have been
34 adjusted for demographic and clinical factors.

35 SEC. 11. Section 128755 of the Health and Safety Code is
36 amended to read:

37 128755. (a) (1) Hospitals shall file the reports required by
38 subdivisions (a), (b), (c), and (d) of Section 128735 with the office
39 within four months after the close of the hospital's fiscal year
40 except as provided in paragraph (2).

1 (2) If a licensee relinquishes the facility license or puts the
2 facility license in suspense, the last day of active licensure shall
3 be deemed a fiscal year end.

4 (3) The office shall make the reports filed pursuant to this
5 subdivision available no later than three months after they were
6 filed.

7 (b) (1) Skilled nursing facilities, intermediate care facilities,
8 intermediate care facilities/developmentally disabled, hospice
9 facilities, and congregate living facilities, including nursing
10 facilities certified by the state department to participate in the
11 Medi-Cal program, shall file the reports required by subdivisions
12 (a), (b), (c), and (d) of Section 128735 with the office within four
13 months after the close of the facility's fiscal year, except as
14 provided in paragraph (2).

15 (2) (A) If a licensee relinquishes the facility license or puts the
16 facility licensure in suspense, the last day of active licensure shall
17 be deemed a fiscal year end.

18 (B) If a fiscal year end is created because the facility license is
19 relinquished or put in suspense, the facility shall file the reports
20 required by subdivisions (a), (b), (c), and (d) of Section 128735
21 within two months after the last day of active licensure.

22 (3) The office shall make the reports filed pursuant to paragraph
23 (1) available not later than three months after they are filed.

24 (4) (A) Effective for fiscal years ending on or after December
25 31, 1991, the reports required by subdivisions (a), (b), (c), and (d)
26 of Section 128735 shall be filed with the office by electronic media,
27 as determined by the office.

28 (B) Congregate living health facilities are exempt from the
29 electronic media reporting requirements of subparagraph (A).

30 (c) A hospital shall file the reports required by subdivision (g)
31 of Section 128735 as follows:

32 (1) For patient discharges on or after January 1, 1999, through
33 December 31, 1999, the reports shall be filed semiannually by
34 each hospital or its designee not later than six months after the end
35 of each semiannual period, and shall be available from the office
36 no later than six months after the date that the report was filed.

37 (2) For patient discharges on or after January 1, 2000, through
38 December 31, 2000, the reports shall be filed semiannually by
39 each hospital or its designee not later than three months after the
40 end of each semiannual period. The reports shall be filed by

1 electronic tape, diskette, or similar medium as approved by the
2 office. The office shall approve or reject each report within 15
3 days of receiving it. If a report does not meet the standards
4 established by the office, it shall not be approved as filed and shall
5 be rejected. The report shall be considered not filed as of the date
6 the facility is notified that the report is rejected. A report shall be
7 available from the office no later than 15 days after the date that
8 the report is approved.

9 (3) For patient discharges on or after January 1, 2001, the reports
10 shall be filed by each hospital or its designee for report periods
11 and at times determined by the office. The reports shall be filed
12 by online transmission in formats consistent with national standards
13 for the exchange of electronic information. The office shall approve
14 or reject each report within 15 days of receiving it. If a report does
15 not meet the standards established by the office, it shall not be
16 approved as filed and shall be rejected. The report shall be
17 considered not filed as of the date the facility is notified that the
18 report is rejected. A report shall be available from the office no
19 later than 15 days after the date that the report is approved.

20 (d) The reports required by subdivision (a) of Section 128736
21 shall be filed by each hospital for report periods and at times
22 determined by the office. The reports shall be filed by online
23 transmission in formats consistent with national standards for the
24 exchange of electronic information. The office shall approve or
25 reject each report within 15 days of receiving it. If a report does
26 not meet the standards established by the office, it shall not be
27 approved as filed and shall be rejected. The report shall be
28 considered not filed as of the date the facility is notified that the
29 report is rejected. A report shall be available from the office no
30 later than 15 days after the report is approved.

31 (e) The reports required by subdivision (a) of Section 128737
32 shall be filed by each hospital or freestanding ambulatory surgery
33 clinic for report periods and at times determined by the office. The
34 reports shall be filed by online transmission in formats consistent
35 with national standards for the exchange of electronic information.
36 The office shall approve or reject each report within 15 days of
37 receiving it. If a report does not meet the standards established by
38 the office, it shall not be approved as filed and shall be rejected.
39 The report shall be considered not filed as of the date the facility

1 is notified that the report is rejected. A report shall be available
2 from the office no later than 15 days after the report is approved.

3 (f) Facilities shall not be required to maintain a full-time
4 electronic connection to the office for the purposes of online
5 transmission of reports as specified in subdivisions (c), (d), and
6 (e). The office may grant exemptions to the online transmission
7 of data requirements for limited periods to facilities. An exemption
8 may be granted only to a facility that submits a written request and
9 documents or demonstrates a specific need for an exemption.
10 Exemptions shall be granted for no more than one year at a time,
11 and for no more than a total of five consecutive years.

12 (g) The reports referred to in paragraph (2) of subdivision (a)
13 of Section 128730 shall be filed with the office on the dates
14 required by applicable law and shall be available from the office
15 no later than six months after the date that the report was filed.

16 (h) The office shall post on its Internet Web site and make
17 available to any person a copy of any report referred to in
18 subdivision (a), (b), (c), (d), or (g) of Section 128735, subdivision
19 (a) of Section 128736, subdivision (a) of Section 128737, Section
20 128740, and, in addition, shall make available in electronic formats
21 reports referred to in subdivision (a), (b), (c), (d), or (g) of Section
22 128735, subdivision (a) of Section 128736, subdivision (a) of
23 Section 128737, Section 128740, and subdivisions (a) and (c) of
24 Section 128745, unless the office determines that an individual
25 patient's rights of confidentiality would be violated. The office
26 shall make the reports available at cost.

27 *SEC. 12. The department is not required to draft the regulations*
28 *required under this act if the California Hospice and Palliative*
29 *Care Association drafts the necessary regulations, in consultation*
30 *with the department and other state departments and stakeholders,*
31 *and submits the draft regulations as a petition for regulation for*
32 *the department's review and approval, pursuant to Sections*
33 *11340.6 and 11340.7 of the Government Code.*

34 ~~SEC. 12.~~

35 *SEC. 13.* No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O